

JUN 13 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FRANCISCO VALENCIA,

Defendant - Appellant.

No. 02-30239

D.C. No. CR-01-00108-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Argued and Submitted June 3, 2003
Seattle, Washington

Before: HUG, B. FLETCHER, and McKEOWN, Circuit Judges.

We conclude that sufficient evidence exists to support the jury's determination that Francisco Valencia committed the crime of sexual abuse of a minor by engaging in a sexual act with his minor cousin, Buffy Y. United States v. Carranza, 289 F.3d 634, 641-42 (9th Cir. 2002).

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Next, the district court did not abuse its discretion in excluding certain evidence about the relationship between Buffy and her mother, or an alleged conversation between Buffy and her mother regarding a false sexual abuse allegation against Buffy's father in an unrelated prior incident. United States v. Payne, 944 F.2d 1458, 1469 (9th Cir. 1991). We conclude that Valencia's Sixth Amendment right was not violated. Lilly v. Virginia, 527 U.S. 116, 136-37 (1999).

The district court is AFFIRMED.